

# **SME DESIGN**

MEDICAL DEVICE PRODUCT DEVELOPMENT

January 6, 2000

M. Banks Neil  
Attorney  
C.R.Bard, Inc.  
8195 Industrial Blvd.  
Covington, GA 30014-1498

Dear Mr. Neil:

This letter is in response to your November 10, 1999 letter to me. I appreciate you getting back to me. I have spent the time since gathering my thoughts. I made contact with Bert Mirsky through an appointed representative and found that contempt for me has made it all the way to the top. Unfortunately, BUD has the wrong idea about me and apparently no intentions of working out this issue. Therefore, as of this letter if a reasonable offer is not presented to me with in 30 days, I will move forward with legal action.

BUD is very wrong. There was never an agreement between BUD and SME other than to provide BUD Open and Soft Tip catheters designed and built by SME for eighteen months for a specific price. This was a simple one and half page document that I presented. The BUD 48 page or so Distribution Agreement was never signed or agreed to.

All intellectual property related to Soft Tip Catheters such as materials specification and manufacturing processes are the property of SME, not BUD. I invented, developed and produced this product. I specified the material that provided significant soft tip radiopacity, and weld strength and presented it to BUD. A review of the meeting between N. Sarabia, R. Winkler, H. Khymus, D. Dunn and myself at BUD will clearly detail the course of events. My ability to supply a device with significant strength, radiopacity and distal tip flexibility were immediately noticed at which time SME scaled up into pilot manufacturing in less than three months per BUD's request. *Let me repeat*, it was my process and design and SME only sold bulk versions per BUD color specifications. BUD only has the right to the Trademark "Tigertail". BUD supported SME on a patent strategy where we were all in agreement that SME did not have to pursue a patent at this time. We had the following year to decide while in the mean time SME technology would be closely held as a Trade Secret. At no time was there an issue of ownership of the technology, it was clearly SME's patent and technology. This information as well as significantly more is on file and available should a trial be required.

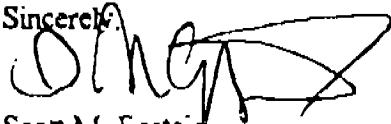
You should review your files and present documents that indicate otherwise. Furthermore BUD had a Confidentiality Agreement with SME. Accordingly, BUD has violated the terms of this agreement under the circumstances. We will demand to whom any trade secrets with in the scope of our Soft Tip technology were conveyed to. We will demand to know how many catheters and related devices have been sold to date.

This technology is an asset of mine and I expect to continue to use it. BUD's use of my technology is with out consent and is impacting my ability to make a living. We will demand damages accordingly. Therefore I request BUD cease activities related to the sale or manufacturing of product related to SME technology until this issue is resolved.

I once had an excellent working relationship with BUD. Now, several years later most if not all the personal I worked with have left BUD. Our relationship has been apparently difficult since then. A list of *former* BUD personal who support my opinion and see things pretty much my way follows. I suggest you think about this. I can only imagine that perhaps confusion in there absence has lead to the current situation. From Engineering and Manufacturing: Xavier Sarabia, Rance Winkler, Lora Nolan, Rob Farnum & Bill Norton; from QC/QA: Mark Hileman & Jeff Fecho; from Materials: Cliff Barr; from Marketing: Howard Khymus and David Jones (Attorney). Additionally, Duane Dunn, President of Dunn Industries stands with significant documentation supporting my claims.

I can be reached at any time at 508 655 1044. You can write me at 178 Boden Lane, Natick M.A. 01760. I can be in Atlanta with in 24 hours notice. This letter is being copied to my attorneys and I hope for a speedy close to this issue. Otherwise this is the last communication that will come directly from me until a court decision put this to rest.

Sincerely,



Scott M. Epstein  
CTO/CEO Medical Device Labs, Inc.

cc: Gary Lambert: Lambert & Ricci: Boston M.A  
A.J. DeBartolomeo: Robins, Kaplan, Miller & Ceresi; San Francisco. CA  
Bert Mirsky: President, BUD  
Nadia C. Adler: VP CR Bard